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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,468	01/31/2002	Neil Tilbor	204-6 (US)	3502

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KEUSEY, TUTUNJIAN & BITETTO, P.C.  
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PORT WASHINGTON, NY 11050

EXAMINER

FRANCIS, FAYE

ART UNIT PAPER NUMBER

3712

DATE MAILED: 01/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/066,468

**Applicant(s)**

TILBOR ET AL.

**Examiner**

Faye Francis

**Art Unit**

3712

-- **The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-13 is/are rejected.
- 7) ☒ Claim(s) 2 and 14-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 4 is objected to because of the following informalities: in line 1, "said opposing pairs" should be replaced with --opposing pairs--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-5, 7, 9-10 and 12 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Tilbor et al [5,429,543], hereinafter Tilbor.

Tilbor discloses a radio control toy vehicle 10 having an overall vehicle mass comprising: a body 12, a rear pair of gyroscopic action wheels 25-26, at least one front gyroscopic action wheel and means for selectively driving the gyroscopic action wheels at speeds to create a gyro effect at each of the wheels, the gyro effect generating centrifugal forces at each wheel, wherein the centrifugal forces are transformed in torque reactions on the entire toy when at least one of the gyroscopic action wheels is instantaneously reversed through the driving means [col 1 lines 32-68] as recited in claims 1 and 9. Additionally, Tilbor discloses, a first reversible motor 31 and gearing 30 for driving a first pair of side wheels defined by one of the rear pair of wheels and one of the front pair disposed on one side of the chassis [wheels 23 and 25], a second

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reversible motor 41 and gearing for driving a second pair of side wheels defined by the other of the rear pair of wheels and the other of the front pair of wheels disposed on the other side of the chassis [wheels 26 and 24] as recited in claims 3 and 9-10.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6 and 11 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Tilbor in view of George et al, hereinafter George.

Tilbor discloses most of the elements of these claims as stated above.

Tilbor does not disclose each of the wheels have a diameter, and the diameters are equal to each other as recited in claims 6 and 11.

George is cited to show desirability, in the relevant art, to have a radio control toy vehicle with wheels having equal diameters. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Tilbor with the missing elements as taught by George in order to make the toy more fun to play with.

6. Claims 8 and 13 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Tilbor in view of Tilbor et al [6,024,627], hereinafter Tilbor 627.

Tilbor discloses most of the elements of these claims as stated above.

Tilbor does not disclose each of the wheels have an outer circumferential surface having varying coefficients of friction based on the point of contact with a running surface on which the toy is being operated as recited in claims 8 and 13.

Tilbor 627 is cited to show a desirability, in the relevant art, to have wheels with varying coefficients of friction [col 5 lines 21-45 and col 8 lines 5-15]. It would have been obvious to provide the device of Tilbor with the missing elements as taught by Tilbor 627 in order to allow the toy to play on carpets while playing inside the house.

***Allowable Subject Matter***

7. Claims 2 and 14-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments filed 11/3/03 have been fully considered but they are not persuasive.

In response to applicant's argument on page 8-second paragraph that the Tilbor fails to disclose or suggest the subject matter of independent claims 1 and 9, the examiner would like to point out that although the Tilbor reference may not specifically refer to each and every element of these claims, the claims read on the reference as noted herein. For example the rear pair of wheels 25-26 and front pair of wheels 23-24 are considered to be gyroscopic action wheels because they inherently create gyroscopic effect as they turn [note the definition of "**gy·ro·scope**" (ji're-skop') *noun* A device consisting of a spinning mass, typically a disk or wheel, mounted on a base so

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that its axis can turn freely in one or more directions and thereby maintain its orientation regardless of any movement of the base, according to Microsoft bookshelve basics]. Additionally, Tilbor discloses means [the reversible motors 31 and 41] for selectively driving the gyroscopic action wheels at speeds to create a gyro effect at each of the wheels, the gyro effect generating centrifugal forces at each wheel [since the wheels inherently have weight] note the defination of **centrifugal force** [*noun* The component of apparent force on a body in curvilinear motion, as observed from that body, that is directed away from the center of curvature or axis of rotation] according to Microsoft bookshelve basics.

The applicant also argues that the Tilbor fails to disclose that the centrifugal forces are transformed in torque reactions on the entire toy when at least one of the gyroscopic action wheels is instantaneously reversed through the driving means. In response it should first be noted that Tilbor clearly teaches reversal of the driving wheels through the action of the driving means, so the applicant's argument amounts to an assertion that although Tilbor discloses all that is structurally required in claims 1 and 9 the claims should be found to distinguish over the reference because of the functional recitation noted immediately above. On the other hand the examiner would like to point out that the above functional recitations are inherent in the Tilbor reference since as the wheels are reversed and the toy turns the centrifugal forces noted by the examiner in the discussion above inherently transformed in torque reactions on the entire toy. For the above reasons the rejections have not been withdrawn.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 703-306-5941. The examiner can normally be reached on M-F 6:30-3:00.

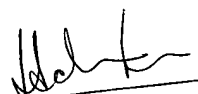
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

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\_\_\_\_\_  
Jacob K. Adam  
Principal Examiner